

1 Tammy Hussin, Esq. (Bar No. 155290)
2 Lemberg Law, LLC
6408 Merlin Drive
3 Carlsbad, CA 92011
4 Telephone (855) 301-2100 ext. 5514
thussin@leberglaw.com
5

6 Lemberg Law, LLC
1100 Summer Street
7 Stamford, CT 06905
8 Telephone: (203) 653-2250
Facsimile: (203) 653-3424
9

10 Attorneys for Plaintiff,
Jim Beyroutey
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13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA
15

16 Jim Beyroutey,

17 Plaintiff,

18 vs.
19

20 Glass Mountain Capital, LLC; and DOES
21 1-10, inclusive,

22 Defendants.
23
24
25

Case No.: '14CV0112 JAH RBB

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 *ET. SEQ*;
2. VIOLATION OF FAIR DEBT
COLLECTION PRATICES ACT,
CAL.CIV.CODE § 1788 *ET. SEQ*.
3. VIOLATION OF TELEPHONE
CONSUMER PROTECTION ACT,
47 U.S.C. §227 *ET. SEQ*

JURY TRIAL DEMANDED

1 For this Complaint, the Plaintiff, Jim Beyrouthey, by undersigned counsel, states
2 as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"), violations of the
7 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* ("TCPA"), and the
8 invasions of Plaintiff's personal privacy by the Defendants and its agents in their
9 illegal efforts to collect a consumer debt.
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11 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
12

13 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
14 Defendants transact business here and a substantial portion of the acts giving rise to
15 this action occurred here.
16

17 **PARTIES**

18 4. The Plaintiff, Jim Beyrouthey (hereafter "Plaintiff"), is an adult individual
19 residing in El Cajon, California, and is a "consumer" as the term is defined by 15
20 U.S.C. § 1692a(3) and is a "person" as defined by 47 U.S.C. § 153(10).
21

22 5. The Defendant, Glass Mountain Capital, LLC (hereafter "GMC"), is a
23 company with an address of 1930 Thoreau Drive, Suite 100, Schaumburg, Illinois
24 60173, operating as a collection agency, and is a "debt collector" as the term is
25 defined by 15 U.S.C. § 1692a(6) and is a "person" as defined by 47 U.S.C. § 153(10).
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1 6. Does 1-10 (the “Collectors”) are individual collectors employed by GMC
2 and whose identities are currently unknown to the Plaintiff. One or more of the
3 Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. GMC at all times acted by and through one or more of the Collectors.
7

8 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

9 **A. The Debt**

10 8. A financial obligation (the “Debt”) was allegedly incurred to an original
11 creditor (the “Creditor”).
12

13 9. The Debt arose from services provided by the Creditor which were
14 primarily for family, personal or household purposes and which meets the definition
15 of a “debt” under 15 U.S.C. § 1692a(5).
16

17 10. The Debt was purchased, assigned or transferred to GMC for collection,
18 or GMC was employed by the Creditor to collect the Debt.
19

20 11. The Defendants attempted to collect the Debt and, as such, engaged in
21 “communications” as defined in 15 U.S.C. § 1692a(2).
22

23 **B. GMC Engages in Harassment and Abusive Tactics**

24 12. Within the last year, GMC contacted Plaintiff on his cellular telephone in
25 an attempt to collect the Debt from “Ernesto” (the “Debtor”).
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13. Plaintiff does not know the Debtor and is no way responsible for the Debt.

14. GMC informed Plaintiff that the call was an attempt to collect the Debt and requested to speak to the Debtor.

15. Plaintiff informed GMC that the Debtor was unknown to him and unreachable at his number, and requested that all calls to him stop.

16. Thereafter, despite having been informed of such, GMC continued calling Plaintiff at an annoying and harassing rate, sometimes calling Plaintiff two times per day, multiple days per week for successive weeks in a row.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

17. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

19. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

1 20. Defendants used an unfair and unconscionable means to collect the debt,
2 in violation of 15 U.S.C. § 1692f.

3
4 21. The foregoing acts and omissions of the Defendants constitute numerous
5 and multiple violations of the FDCPA, including every one of the above-cited
6 provisions.

7
8 22. The Plaintiff is entitled to damages as a result of the Defendants'
9 violations.

10
11 **COUNT II**
12 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**
13 **PRACTICES ACT, Cal. Civ. Code § 1788 *et seq.***

14 23. The Plaintiff incorporates by reference all of the above paragraphs of this
15 Complaint as though fully stated herein.

16 24. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
17 section 1788 *et seq.* ("Rosenthal Act") prohibits unfair and deceptive acts and
18 practices in the collection of consumer debts.

19
20 25. Glass Mountain Capital, LLC, in the regular course of business, engages
21 in debt collection and is a "debt collector" as defined by Cal. Civ. Code § 1788.2(c).

22 26. The Defendants caused a telephone to ring repeatedly and engaged the
23 Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation
24 of Cal. Civ. Code § 1788.11(d).
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1 a representative in not “free to take a call that has been placed by a predictive dialer,
2 the consumer answers the phone only to hear ‘dead air’ or a dial tone, causing
3 frustration.” *Id.* In addition, the TCPA places prohibitions on companies that
4 “abandon” calls by setting “the predictive dialers to ring for a very short period of
5 time before disconnecting the call; in such cases, the predictive dialer does not record
6 the call as having been abandoned.” *Id.*

9 34. Defendant’s telephone systems have all the earmarks of a Predictive
10 Dialer. Usually, when Plaintiff answered the phone, Defendants’ telephone system did
11 not connect the call to a live representative. After saying hello several times, GMC’s
12 phone system would terminate the call.

14 35. Sometimes when Plaintiff answered the phone, he would hear a period of
15 silence and was required to say “hello” several times before Defendants’ phone
16 system would connect Plaintiff to the next available representative.

18 36. Defendants’ Predictive Dialers have the capacity to store or produce
19 telephone numbers to be called, using a random or sequential number generator.

21 37. Often times when Plaintiff did not answer the call, GMC would leave a
22 blank voicemail message, indicated that its telephone system did not recognize that
23 the call went to Plaintiff’s voicemail.

1 38. Plaintiff never provided his cellular telephone to GMC and never
2 provided his consent to be contacted on his cellular telephone, and in fact instructed
3 GMC to stop all calls to him.
4

5 39. Upon information and belief, Plaintiff never provided his cellular
6 telephone to the Creditor and never gave consent to the Creditor to contact him on his
7 cellular telephone number.
8

9 40. The calls from Defendant to Plaintiff were not placed for “emergency
10 purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).
11

12 41. Each of the aforementioned calls made by Defendant constitutes a
13 violation of the TCPA.
14

15 42. As a result of each of Defendant’s negligent violations of the TCPA,
16 Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in
17 violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).
18

19 43. As a result of each of Defendant’s knowing and/or willful violations of
20 the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to
21 \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C.
22 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
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COUNT IV
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

44. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

45. The Restatement of Torts, Second, § 652B defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

46. California further recognizes the Plaintiff’s right to be free from invasions of privacy, thus the Defendants violated California state law.

47. The Defendants intentionally intruded upon Plaintiff’s right to privacy by continually harassing Plaintiff with the above referenced repeated telephone calls.

48. The telephone calls made by the Defendants to Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652B requirement for an invasion of privacy.

49. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

50. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from the Defendants.

